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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 38th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 22 February 1991, at 3 p.m.

Chairman: Mr. MARTIUS (Germany)

later: Mr. BERNALES BALLESTEROS (Peru)

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Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

(a) Problems related to the right to enjoy an adequate standard of living; foreign debt, economic adjustment policies and their effects on the full enjoyment of human rights and, in particular, on the implementation of the Declaration on the Right to Development

(b) Popular participation in its various forms as an important factor in development and in the full realization of all human rights (continued)

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The meeting was called to order at 3.40 p.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1991/L.9/Rev.1)

Draft resolution E/CN.4/1991/L.9/Rev.1

1. The CHAIRMAN said that the title of draft resolution E/CN.4/1991/L.9/Rev.1 had been changed to "Use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination", and that the delegation of Tunisia had joined the list of sponsors.

2. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said, with regard to the programme budget implications of the draft resolution, that it would entail new reporting obligations on the part of the Special Rapporteur on the question of mercenaries, as reflected in paragraphs 4 and 5. It would then be necessary to upgrade the staff support to be financed from the temporary assistance appropriation, which would imply five additional working months for the remaining period of 1991-1992 at an estimated cost of $34,500.

3. Mr. WALKER (Australia) said he welcomed the efforts made by the sponsors of the draft resolution to submit a text which could be adopted without a vote.

4. Draft resolution E/CN.4/1991/L.9/Rev.1 was adopted without a vote.

5. Mr. Bernales Ballesteros (Peru) took the Chair.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1991/L.21 and L.22)

Draft resolution E/CN.4/1991/L.22

6. The CHAIRMAN suggested that the Commission might wish to postpone its consideration of draft resolution E/CN.4/1991/L.22.

7. It was so decided.

Draft resolution E/CN.4/1991/L.21

8. Mr. BLAVO (Ghana), introducing draft resolution E/CN.4/1991/L.21 on behalf of its sponsors, said that, as stated in the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1991/10), in spite of the policy pronouncements by President De Klerk in 1990 and the positive changes which had since ensued, there was as yet no evidence of any fundamental change on the ground. The report made it clear that the South African police and other white extremists had opened fire on South African children during peaceful demonstrations, and documented many instances of arrest, detention and torture of young victims. Accordingly, it was necessary once again to draw the attention of the international community to the plight of children in South Africa through the adoption by consensus of a draft resolution.

9. The draft under consideration in 1991 was different in tone and language from that adopted the previous year, reflecting the positive changes under way in South Africa and the long road still ahead. The changes in question had rendered irrelevant some of the provisions of the previous year's resolution, such as the call for the lifting of the state of emergency.

10. Drawing attention to the fifth preambular paragraph, he said that the draft resolution demanded the immediate, total and effective implementation of President De Klerk's recent policy pronouncements. He also drew attention to paragraph 5, calling for the maintenance of all forms of measures to bring pressure to bear upon the Government of South Africa in order to achieve a profound and irreversible change.

11. He hoped that the draft resolution would be adopted without a vote.

12. Mr. LOEIS (Indonesia) said that his delegation had joined the list of sponsors of the draft resolution.

13. Draft resolution E/CN.4/1991/L.21 was adopted without a vote.

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued)
(E/CN.4/1991/L.23/Rev.1; E/CN.4/1991/2, Chapter I A, draft resolution I)

Draft resolution E/CN.4/1991/L.23/Rev.1

14. The CHAIRMAN suggested that the Commission might wish to postpone its consideration of draft resolution E/CN.4/1991/L.23/Rev.1.

15. It was so decided.

Draft resolution I (E/CN.4/1991/2, chapter I A)

16. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution I.

17. Canada, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Brazil, Burundi, China, Colombia, Cuba, Cyprus, Ethiopia, Ghana, India, Indonesia, Iraq, Mauritania, Mexico, Morocco, Pakistan, Panama, Peru, Philippines, Senegal, Somalia, Swaziland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Zambia.

Against: Australia, Austria, Belgium, Canada, Czech and Slovak Federal Republic, France, Gambia, Germany, Italy, Japan, Portugal, Sweden, United States of America.

Abstaining: Hungary.

18. Draft resolution I was adopted by 28 votes to 13, with one abstention.

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 15) (continued) (E/CN.4/1991/L.24)

Draft resolution E/CN.4/1991/L.24

19. Mr. MUGOMBA (Observer for Zimbabwe), introducing draft resolution E/CN.4/1991/L.24, said that its sponsors had taken note of General Assembly resolution 45/90, the report of the Group of Three established under article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid (E/CN.4/1991/42), the Harare communiqué of 7 February 1991 of the Ad Hoc Committee of Heads of State or Government on southern Africa of the Organization of African Unity and the current political developments in South Africa.

20. The draft resolution reaffirmed their conviction that it was the responsibility of the United Nations, the international community and the Commission to assist the people of South Africa to eradicate apartheid. He drew attention to the final preambular paragraph, which called for the maintenance of sanctions and all forms of pressure against the Government of South Africa, and to operative paragraph 11, which appealed to States parties to the Convention to strengthen their co-operation at the national and international levels in order to implement fully the decisions taken by the Security Council concerning apartheid.

21. He hoped that the draft resolution would receive broad support from the members of the Commission so as to send a message that the world community remained committed to the total elimination of apartheid.

22. Mr. KHAN (Pakistan) and Mr. AL-KADHI (Iraq) said that their delegations had joined the list of sponsors of the draft resolution.

23. At the request of the representative of Germany, a vote was taken by roll-call on preambular paragraphs 6, 7, 9, 12 and 13 and operative paragraphs 9, 10, 14 and 15 of draft resolution E/CN.4/1991/L.24.

24. Mauritania, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Burundi, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, India, Indonesia, Iraq, Mauritania, Mexico, Morocco, Pakistan, Panama, Peru, Philippines, Senegal, Somalia, Swaziland, Venezuela, Yugoslavia, Zambia.

Against: Belgium, Canada, France, Germany, Italy, Japan, Portugal, United States of America.

Abstaining: Australia, Austria, Brazil, Czech and Slovak Federal Republic, Hungary, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

25. Preambular paragraphs 6, 7, 9, 12 and 13 and operative paragraphs 9, 10, 14 and 15 of draft resolution E/CN.4/1991/L.24 were adopted by 26 votes to 8, with 8 abstentions.

26. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1991/L.24.

27. Burundi, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Brazil, Burundi, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, Ghana, India, Indonesia, Iraq, Mauritania, Mexico, Morocco, Pakistan, Panama, Peru, Philippines, Senegal, Somalia, Swaziland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Zambia.

Against: United States of America.

Abstaining: Australia, Austria, Belgium, Canada, Czech and Slovak Federal Republic, France, Germany, Hungary, Italy, Japan, Portugal, Sweden.

28. Draft resolution E/CN.4/1991/L.24 was adopted by 29 votes to 1, with 12 abstentions.

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16) (continued) (E/CN.4/1991/L.20)

Draft resolution E/CN.4/1991/L.20

29. Mr. SENE (Senegal), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegation of Somalia, said that it had been elaborated on the basis of Commission of Human Rights resolution 1990/13, Sub-Commission resolution 1990/1 and General Assembly resolution 45/105, together with the report of the Secretary-General (E/CN.4/1991/43).

30. It took note with satisfaction of the report of the seminar on the political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid, held at Geneva from 10 to 14 December 1990, and requested its wide distribution; it encouraged the Under-Secretary-General for Human Rights to continue his efforts to co-ordinate all the programmes currently under implementation by the United Nations system that related to the objectives of the Second Decade; and requested the Secretary-General to organize in 1991 a meeting of representatives of national institutions and organizations promoting tolerance and harmony and combating racism and racial discrimination with a view to exchanging experience on the promotion of such objectives, which had been scheduled for 1990. Appropriate resources must, of course, be made available so that the activities that had been planned and adopted by common agreement could actually be carried out.

31. Although significant progress had been made by the international community in combating intolerance, millions of human beings continued to be victims of various forms of racism, racial discrimination and apartheid. At its forty-second session, the Sub-Commission had recommended that the General Assembly take appropriate steps, in due course, to launch a

third Decade to Combat Racism and Racial Discrimination, to begin in 1993. That was a particularly suitable year in that it coincided with the World Conference on Human Rights.

32. He informed the Commission that, in operative paragraph 2, after the phrase "International Convention on the Suppression and Punishment of the Crime of Apartheid" the phrase "the International Convention against Apartheid in Sports" should be inserted.

33. It was to be hoped that, as in previous years, the draft resolution would be adopted without a vote.

34. Mr. PACE (Secretary of the Commission) said that draft resolution E/CN.4/1991/L.20 had certain programme budget implications: a meeting of representatives of national institutions and organizations promoting tolerance and harmony and combating racism and racial discrimination was to be held at Geneva in 1991-1992, subject to the availability of extrabudgetary resources. The hiring of consultants for the preparation of background papers and the preparation and finalizing of a handbook of recourse procedures was also envisaged. The breakdown of requirements was the following: from extrabudgetary resources for travel and subsistence of participants: $US 125,000; for consultants under section 23 of the programme budget: $US 33,300; for general temporary assistance: $US 41,500; and for conference servicing requirements: $US 99,400. The details of the financial statement would be made available as soon as Headquarters had given its approval.

35. Draft resolution E/CN.4/1991/L.20 was adopted without a vote.

36. Mr. DANNENBRING (Germany), speaking in explanation of vote, said that, although his delegation had repeatedly condemned apartheid as a flagrant violation of human rights that must be abolished, it had abstained on draft resolution E/CN.4/1991/L.24 and had voted against some of its paragraphs. The reason was that his Government continued to question the value of the International Convention on the Suppression and Punishment of the Crime of Apartheid for a number of legal reasons, the most important being that it failed to define precisely the violations it covered.

37. Mr. REICH (United States) said that his delegation had not participated in the vote on draft resolution E/CN.4/1991/L.21 on the detention, torture and other inhuman treatment of children in South Africa because, although it had been considerably softened as compared with the 1990 version, it was still not consistent with the more positive wording of the resolution on apartheid adopted at the forty-fifth session of the General Assembly. His delegation was particularly concerned that the draft resolution continued to refer to the detention, torture and inhuman treatment of children in the present tense, thereby failing to recognize recent significant improvements in the situation.

38. In keeping with past practice, his delegation had not participated in the vote on draft resolution E/CN.4/1991/L.20 on implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. The United States had withdrawn from the activities of the First Decade after adoption by the General Assembly of resolution 3379 (XXX) of 1975, which had

declared zionism to be a form of racism. Since that resolution still remained in force, the United States had not participated in the Second Decade, and the same reasoning applied to any third Decade.

39. Mr. MALGINOV (Union of Soviet Socialist Republics) said that his delegation, which had consistently supported the struggle against apartheid, was in favour of the implementation of all the provisions of the Declaration on Apartheid and its Destructive Consequences in Southern Africa, which was essential for creating a democratic and non-racial Government in South Africa. It had, however, abstained on a number of paragraphs in draft resolution E/CN.4/1991/L.24, because they did not take into account the recent major improvements in the situation. It was to be hoped that a future text would be more in keeping with the current reality of South Africa.

40. Mr. PAGAC (Czech and Slovak Federal Republic) said that, although his delegation strongly condemned apartheid, it had abstained on draft resolution E/CN.4/1991/L.24, because neither its contents nor its language reflected the recent encouraging developments in South Africa.

41. Mr. WALKER (Australia) said that his delegation had abstained on draft resolution E/CN.4/1991/L.24 as a whole and in the vote on the individual paragraphs. Australia was not a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid, because it contained legal concepts that his Government did not accept.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; FOREIGN DEBT, ECONOMIC ADJUSTMENT POLICIES AND THEIR EFFECTS ON THE FULL ENJOYMENT OF HUMAN RIGHTS AND, IN PARTICULAR, ON THE IMPLEMENTATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT;

(b) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS (agenda item 7) (continued) (E/CN.4/1991/L.12, L.14, L.16, L.18 and L.19)

Draft resolution E/CN.4/1991/L.12

42. Ms. ILIC (Yugoslavia), introducing the draft resolution on behalf of its sponsors, which had been joined by the delegation of Cyprus, said that it requested the Secretary-General to update the study on popular participation in its various forms, taking into account all replies given by Governments, United Nations organs, specialized agencies and non-governmental organizations since the conclusion of that study as well as any further replies that might be received. It also decided to consider the question of popular participation at the forty-ninth session of the Commission under the agenda sub-item "Popular participation in its various forms as an important factor in development and in the full realization of all human rights". It was to be hoped that, as in the past, the draft resolution could be adopted without a vote.

43. Draft resolution E/CN.4/1991/L.12 was adopted without a vote.

Draft resolution E/CN.4/1991/L.14

44. Mr. ARTEAGA (Venezuela), introducing the draft resolution on behalf of its sponsors, said that its purpose was to reiterate the interdependence and indivisibility of all human rights and fundamental freedoms. It was important to analyse the link between the foreign debt problem and the realization of human rights in the light of the right to development. The international community must be made aware of the sacrifices that the debt problem imposed on developing countries to the detriment of their basic rights.

45. The current draft resolution was similar to the resolution on the subject adopted by the Commission in 1990, a number of changes having been made in the preambular paragraphs to bring them into line with recent developments. The draft resolution was balanced, and its sponsors were confident that it would receive the support of the members of the Commission.

46. At the request of the United States of America, a vote was taken by a display of name-plates on draft resolution E/CN.4/1991/L.14.

47. Draft resolution E/CN.4/1991/L.14 was adopted by 31 votes to 2, with 9 abstentions.

Draft resolution E/CN.4/1991/L.16

48. Mr. HESSEL (France), introducing the draft resolution on behalf of its sponsors which had been joined by the delegation of Burundi, said that the draft resolution was very similar to resolution 1990/15 that had been adopted the previous year. It noted with satisfaction, in its twelfth preambular paragraph, the Commission's decision to request one of its members to prepare an outline for the study on human rights and extreme poverty and recommended, in its operative paragraph 5, that the persons directly concerned should be allowed to participate actively in the preparation of the outline by telling of their experiences. He hoped that the draft would be adopted by consensus.

49. Resolution E/CN.4/1991/L.16 was adopted without a vote.

Draft resolution E/CN.4/1991/L.18

50. Mrs. SANTOS PAIS (Portugal), introducing the draft resolution on behalf of its sponsors which had been joined by the delegation of Egypt, said that the draft resolution, while noting the progress made by the international community in setting standards for the realization of economic, social and cultural rights, recognized that the implementation and promotion of those rights had received less attention.

51. It then focused on the work of the Committee on Economic, Social and Cultural Rights, welcoming the Committee's adoption of revised guidelines for reporting and noting, with particular interest, the Committee's General Comment No. 3 on the nature of States parties obligations under the Covenant. It invited the States parties to consider identifying specific national benchmarks to ensure the satisfaction of minumum essential levels of each of those rights. In view of the particular importance of indicators it requested the Secretary-General to organize an expert seminar on the issue to discuss appropriate indicators and assess the achievements in the progressive realization of economic, social and cultural rights.

52. The draft resolution had resulted from wide-ranging consultations among the different regional groups and she hoped that, as in the past, it would be adopted without a vote.

53. Mr. GEBRE-MEDHIN (Ethiopia) said that his delegation had received the draft resolution only the day before and had not had enough time to transmit its views before the stated deadline. Although the provision corresponding to operative paragraph 12 had been adopted the previous year, there had been developments in various United Nations agencies which led him to propose an amendment to that paragraph, which would then read: "Requests the Secretary-General to take all necessary measures to strengthen the programme of advisory services and, in this regard, urges him to intensify co-ordination between the human rights activities of the United Nations and those of the development agencies, with a view to drawing upon the relevant expertise and support".

54. His delegation was very interested in strengthening the programme of advisory services and he had therefore proposed its amendment to reflect that need. He hoped that, despite rule 52 of the rules of procedure, the Commission would be able to accept his oral submission of the amendment.

55. Mrs. SANTOS PAIS (Portugal) said that, as in the past, the draft had been discussed among the members of the Commission. Her delegation was willing to consider the proposed amendment but regretted that it was being introduced at such a late hour. It might, perhaps, be discussed under agenda item 21. She hoped that the proposal would not jeopardize the adoption by consensus of the draft resolution at the current meeting.

56. Mr. GEBRE-MEDHIN (Ethiopia) said that he had raised the problem because paragraph 12 was ambiguous and he wished his concern to be taken into account. Other resolutions were being proposed under item 21.

57. Mr. WALKER (Australia), proposed as a matter of procedure, that the adoption of the resolution by consensus be postponed until further discussions had taken place between the delegations of Ethiopia and Portugal.

58. Mrs. SANTOS PAIS (Portugal) said that her delegation had no objection to a postponement but regretted that the proposal had reached her delegation so late.

59. Mr. GEBRE-MEDHIN (Ethiopia) said he welcomed the proposal by the representative of Australia and, as a compromise, agreed to the postponement of the vote.

60. Mr. WANG Xuexian (China) said that, when all was said and done, the proposal by the representative of Ethiopia was a reasonable one and that he supported the proposed postponement.

61. The CHAIRMAN said that voting on draft resolution E/CN.4/1991/L.18 would thus be postponed until the following week.

Draft resolution E/CN.4/1991/L.19

62. Mr. WALDROP (United States), introducing the draft resolution, on behalf of its sponsors which had been joined by the delegations of Hungary and Switzerland, said that it closely resembled General Assembly resolution 45/98. The second preambular paragraph reaffirmed the right of States and their peoples freely to choose and develop their political, social, economic and cultural systems. The third preambular paragraph recognized the value of constructive national dialogue on the manner in which States could promote full enjoyment of the right to own property alone or in association with others. That right, which had been established in article 17 of the Universal Declaration of Human Rights, had contributed to securing the goals of economic and social development enshrined in the Charter of the United Nations.

63. Unlike other concepts included in the Universal Declaration of Human Rights, the right to own property had not been developed more fully in a subsequent human rights instrument. Operative paragraph 2 therefore requested the Chairman to entrust an independent expert with the task of preparing a comprehensive study on the extent to which respect for that right contributed to the development of individual liberty and initiative and thus enhanced the exercise of other human rights and fundamental freedoms. The study should cover the right to own two types of property, personal property and economically productive property, as defined in General Assembly resolution 45/98. The Expert should submit a preliminary report to the Commission at its forty-eighth session and the final report at its forty-ninth session.

64. Mr. HARUN-UR-RASHID (Bangladesh) said that his delegation attached particular importance to agenda item 7, because economic, social and cultural rights were closely linked to the achievement of human rights, especially in developing countries. While it was true that the General Assembly had adopted a similar resolution 45/98, the Commission should also take into account other resolutions of the General Assembly. General Assembly resolution 45/96 referred to "Alternative approaches and ways and means within the United Nations system for improving the efforts for the enjoyment of human rights and fundamental freedoms although the countries themselves had the primary responsibility for meeting those needs. It also recognized that the developing countries' efforts should be assisted by an increased flow of resources and by the adoption of appropriate and substantive measures for creating an external environment conducive to such development.

65. All in all, while some parts of the draft resolution were very constructive, there were others that required further clarification. Since he hoped that the draft could be adopted by consensus, he proposed that the vote should be postponed until consultations had been held and a text formulated that would gain such a consensus.

66. Mr. WALDROP (United States), speaking on a point of order, said he had some technical revisions to the text. In operative paragraph 1, line 1, the phrase "consideration of" should be replaced by "consideration by" and in line 2 the phrase "right to" should be replaced by "right of" and in line 4 "rights" should read "right".

67. Mr. SIBAL (India) said he thanked the representative of Bangladesh for raising an important point. There had not been the consultation among the members of the Commission that was needed before a resolution of such importance was proposed. On the substantive issue, he thought that the resolution went far beyond the General Assembly resolution and agreed with the representative of Bangladesh that the vote on the resolution should be postponed.

68. Mr. ROA KOURI (Cuba) said he supported the request by the representative of Bangladesh for a postponement of the vote and asked for a clarification of the meaning of the phrase "within the existing resources" in operative paragraph 2. He also felt that the text went far beyond the General Assembly resolution mentioned.

69. Mr. WALDROP (United States) said that he welcomed the constructive comments made by the delegations of Bangladesh, India and Cuba and acceded to the request for a postponement and consultations. In response to the query by the delegation of Cuba, he explained that the phrase meant that no additional resources would be requested of Member States. A modest sum would be provided by the contingency fund.

70. The CHAIRMAN said that the vote on draft resolution E/CN.4/1991/L.19 would be postponed.

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT (agenda item 8) (continued) (E/CN.4/1991/L.15)

Draft resolution E/CN.4/1991/L.15

71. Mrs. RADIC (Yugoslavia), introducing draft resolution E/CN.4/1991/L.15 on behalf of its sponsors, said that the preamble recalled the relevant General Assembly and Commission resolutions. In operative paragraph 2, it called upon the Secretary-General to submit concrete proposals on the effective implementation and promotion of the Declaration on the Right to Development, taking into account the views expressed on the issue at the forty-seventh session of the Commission as well as any further comments and suggestions that might be submitted on the basis of paragraph 3 of Commission resolution 1990/18.

72. The text was very far from what the sponsors would have liked, namely, the creation of a United Nations mechanism for the implementation and enhancement of the Declaration on the Right to Development. However, they were aware that such a resolution would have not been acceptable to all and therefore considered it their duty to accommodate the broadest possible range of views. She hoped that the draft resolution would receive the overwhelming support of members.

73. The CHAIRMAN announced that the delegations of Bangladesh, Burundi, Ethiopia, Gambia, Madagascar, Pakistan, Somalia, Togo and Zambia should be added to the list of sponsors of the draft resolution.

74. Mr. SENE (Senegal) said that his delegation, too, supported the draft resolution. At first sight, it might not seem to be an important text from the substantive standpoint but it should nevertheless be well received by all

who aspired to progress and well-being. In connection with the forthcoming World Conference on Human Rights, a better knowledge of the right to development could not but serve to strengthen international co-operation and solidarity among peoples.

75. Consideration of the right to development offered an opportunity for in-depth study of the human dimension of development from the standpoint of the promotion of all human rights and fundamental freedoms, including the right to own property. The right to development was a human right needed to ensure the material and spiritual well-being essential for the construction of a new world order. Indeed, the right to development was inseparable from the struggle for human rights and fundamental freedoms, since attacks on the rights of the human person such as hunger, disease, illiteracy and poverty could not be ignored.

76. The United Nations and the various international organizations should seek to ensure an improvement in living conditions and the promotion of human rights with a view to strengthening peace and security throughout the world. The Commission must therefore make its contribution to the dialogue on the application of the right to development, with a view to the construction of a new world order which was just and more fraternal.

77. His delegation wished to become a sponsor of the draft resolution and hoped that it would be adopted by the overwhelming majority of members.

78. At the request of the representative of Brazil a vote was taken by roll-call on draft resolution E/CN.4/1991/L.15.

79. Mexico, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Burundi, Canada, China, Colombia, Cuba, Cyprus, Czech and Slovak Federal Republic, Ethiopia, France, Gambia, Ghana, Hungary, India, Indonesia, Iraq, Italy, Madagascar, Mauritania, Mexico, Morocco, Pakistan, Panama, Peru, Philippines, Portugal, Senegal, Somalia, Swaziland, Sweden, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia, Zambia.

Against: United States of America.

Abstaining: Germany, Japan.

80. Draft resolution E/CN.4/1991/L.15 was adopted by 40 votes to 1, with 2 abstentions.

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 17) (continued) (E/CN.4/1991/L.17)

Draft resolution E/CN.4/1991/L.17

81. Mr. RONQUIST (Sweden), introducing draft resolution E/CN.4/1991/L.17 on behalf of its sponsors, said that it appealed once again to States to become parties to the International Covenants on Human Rights. To that end, the

Secretary-General was invited to intensify his efforts to assist States in ratifying or acceding to those instruments through the programme of advisory services. The importance of the strictest compliance by States parties with their obligations under the instruments was emphasized, as was the importance of avoiding the erosion of human rights by means of derogation. All Governments were encouraged to disseminate the text of the Covenants as widely as possible. The sponsors hoped that the draft would be adopted by consensus.

82. Draft resolution E/CN.4/1991/L.17 was adopted without a vote.

EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO UNITED NATIONS HUMAN RIGHTS INSTRUMENTS (agenda item 18) (continued) (E.CN.4/1991/L.13)

83. Ms. ANDREYCHUK (Canada), introducing draft resolution E/CN.4/1991/L.13 on behalf of its sponsors, said that, with a view to achieving a consensus, they requested a postponement of the vote on the text in order to enable further consultations to be held.

84. The CHAIRMAN said that if he heard no objection, he would take it that the Commission wished to postpone voting on the draft resolution.

85. It was so decided.

86. Mr. RIETJENS (Belgium), speaking in explanation of vote with respect to draft resolution E/CN.4/1991/L.14, said that his delegation attached great importance to the question of foreign debt as it related to the problem facing developing countries and recognized that a close link existed between the enjoyment of economic and social rights and the level of development. The main task of the Commission was, however, to ensure that Governments respected the human rights of their citizens, and not to consider economic relations between States, even if they might have a direct or indirect impact on human rights. There were other bodies in the United Nations which were competent to deal with the important problem of foreign debt and economic adjustment policies.

87. Although it had voted in favour of Commission resolution 1990/24, his delegation had voiced reservations similar to those that it had with regard to resolution E/CN.4/1991/L.14. Furthermore, the preamble of the current draft resolution contained new ideas that were even more out of place in a resolution of the Commission on Human Rights and tended to relieve States of their responsibilities vis-à-vis their own citizens. Consequently, his delegation had abstained.

88. His delegation had voted in favour of draft resolution E/CN.4/1991/L.15, because it recognized the importance of the right to development and accepted the idea that the Secretary-General should report to the Commission at its forty-eighth session on the comments and suggestions he had received. It had, however, reservations about the reference in operative paragraph 3 to the World Conference on Human Rights and to its Preparatory Committee, which might prejudice the global approach needed in pursuing the objectives set.

89. Ms. ANDREYCHUK (Canada) said that her delegation had voted in favour of draft resolution E/CN.4/1991/L.15 on the right to development; her Government already applied the major principles contained in the Declaration on the Right to Development in Canadian development assistance programmes and in its

support for United Nations agencies. The right to development, like those reflected in the International Covenant on Economic, Social and Cultural Rights, contained an evolving and progressive dimension, and all States had responsibilities in that area.

90. Mr. SEZAKI (Japan) said that, while his delegation fully understood the seriousness of debt issues for some developing countries, the Commission was not the appropriate body for considering the issues of foreign debt and economic adjustment policies. Such questions should be taken up in other international forums that dealt with economic matters. For those reasons, his delegation had voted against draft resolution E/CN.4/1991/L.14.

91. With regard to draft resolution E/CN.4/1991/L.15, his delegation was aware that development was an overriding concern for the developing countries, but it should not be confused with the concept of a right to development as a "human right". Human rights were rights of individuals, not of States. His delegation had therefore abstained on the draft resolution.

92. As for draft resolution E/CN.4/1991/L.16, his delegation welcomed the efforts made by the delegation of France, but was concerned that the introduction of the vague notion of "human rights based on solidarity" in the tenth preambular paragraph and operative paragraph 2 would create confusion. It would also be difficult to consider "human rights based on solidarity" when dealing with the issue of "human rights and extreme poverty". Although his delegation had joined the consensus, it had reservations about those two paragraphs.

93. Mr. HESSEL (France) said that it was with much regret that his delegation had abstained in the vote on draft resolution E/CN.4/1991/L.14, since it was one of the States making the greatest possible efforts to alleviate the debt situation of many countries.

94. The previous year, it had voted in favour of Commission resolution 1990/24 on the same subject. The change in its position was due to the introduction into the preamble of the new draft resolution of a paragraph that linked foreign debt directly to the difficulty of guaranteeing conditions that would permit the speedy and adequate administration of justice. That wording might be interpreted as meaning that economic difficulties could be invoked to justify the poor functioning of justice and failure to respect human rights, which his delegation regarded as a highly regrettable ambiguity.

95. With regard to draft resolution E/CN.4/1991/L.15, his delegation had voted in favour of it in order to demonstrate the importance it attached to the promotion of the right in question, even though its content and scope were not yet fully elucidated.

96. His delegation wished, however, to express its regret that the discussions which had led to the submission of that draft resolution had not made it possible to achieve any progress on its substance, thereby giving the impression that the sponsors wished to confine themselves to procedural aspects. The valuable conclusions of the Global Consultation on the Realization of the Right to Development as a Human Right had once again been ignored.

97. In his delegation's opinion, the request made to the Preparatory Committee in operative paragraph 3 was premature, since the preparations for the World Conference were being dealt with in close consultations between delegations. It was regrettable that the sponsors had not taken account of the constructive suggestions made by several delegations, thereby giving additional ammunition to those who argued that the right to development should not be regarded as a human right.

98. Mr. RONQUIST (Sweden) said that his delegation had abstained on draft resolution E/CN.4/1991/L.14 on foreign debt and human rights. Although his Government attached great importance to resolving the foreign debt problem, the Commission was not the appropriate forum and did not have the necessary expertise to deal with the issue. A certain division of labour had to be respected within the United Nations system.

99. Furthermore, while the debt situation had a strong impact on the economic and social development of many countries, it did not in any way limit the obligation of those States to ensure the full enjoyment of civil and political rights for all individuals. More specifically, all States had an obligation to guarantee the proper administration of justice. The lack of resources must never be invoked as an excuse by States for not investigating allegations or bringing to justice those responsible for human rights violations. For those reasons, his delegation had been unable to vote in favour of the draft resolution.

100. His delegation had voted in favour of draft resolution E/CN.4/1991/L.15. It wished, however, to recall that it had abstained on General Assembly resolution 41/128 because of a number of reservations concerning the text of the Declaration. The question of human rights would be distorted if the rights of States were to be dealt with under that label and his delegation was concerned lest with the elevation of the right to development to a human right, the protection of the human person against oppression by State authorities might be jeopardized.

101. At the same time, his delegation welcomed the report from the Global Consultation on the right to development. Several of the criteria stressed in that report corresponded to the goals of the Swedish development assistance programme, which strongly emphasized the promotion of democracy and human rights.

102. As for operative paragraph 3 of the draft resolution, the various tasks of the Preparatory Committee for the World Conference on Human Rights should be considered together and not dealt with in a number of resolutions. His delegation therefore believed that the paragraph in question had no place in the resolution.

103. Mr. CUNHA ALVES (Portugal) said that his delegation had voted in favour of draft resolution E/CN.4/1991/L.15, despite the inclusion of operative paragraph 3 which it regretted, not because it was against the idea proposed but because that was not the proper place to refer to the World Conference on Human Rights and its Preparatory Committee.

104. Mr. KRENKEL (Austria) said, with regard to draft resolution E/CN.4/1991/L.15, that his delegation was not opposed to the idea that the Preparatory Committee for the World Conference on Human Rights should examine the relationship between development and the enjoyment of human rights. It was of the opinion, however, that all issues relating to the World Conference should be addressed within the context of a resolution to be submitted on the Conference.

105. Mr. REICH (United States) said, with regard to draft resolution E/CN.4/1991/L.14, that the foreign debt issue preoccupied many nations, including his own, that were sensitive to the acute debt servicing problems of a number of heavily indebted countries.

106. However, his delegation saw no need to prove its sincerity by placing the debt service issue on the agenda of every organ of the United Nations system. Fundamental human rights and violations of them by Governments must be the central focus of the Commission. The linkage of debt servicing problems to human rights abuses was, at best, tenuous. Human rights issues should be dealt with in the Commission and foreign debt questions in a more appropriate forum.

107. However, he was pleased to note the progress made over the past several years on the specific issue of debt. In that connection, he referred to the initiatives taken by his Government as well as to the communiqué on debt which had followed the Houston Economic Summit. It was clear that many nations had concluded successful rounds of negotiations with private and official creditors on debt rescheduling and debt reduction and he was confident that more would follow in their footsteps.

108. His delegation had not participated in the vote on draft resolution E/CN.4/1991/L.16, because it continued to reject the assertion made therein that extreme poverty hindered the exercise of the individual's human rights and fundamental freedoms. While sympathizing with the motives which had prompted the text, it believed that political and civil rights did not require money for their enforcement and that they were realized the moment the State stopped denying them.

109. All too often, serious and urgent poverty problems were used by repressive Governments as an excuse to abridge the enjoyment of fundamental freedoms. It was no coincidence, however, that those nations which allowed their citizens the widest range of individual and civil rights were also those which experienced the greatest prosperity.

110. Mr. SCHWARZ (United States) said, with regard to draft resolution E/CN.4/1991/L.15, that his delegation appreciated the efforts that had been made to find common ground on the question dealt with in that text. However, it had become clear that the significant improvements which had eventually emerged had not been sufficient to meet his delegation's concern. His delegation was troubled by the resolution's reference to the World Conference on Human Rights, since it deemed it inappropriate for that draft resolution to try to influence the agenda of such an important meeting.

111. His delegation was also concerned at the request made to the Secretary-General to divert time and resources with a view to making concrete proposals concerning the implementation of a right, which defied not only precise definition but also ultimate realization.

112. The draft resolution injected issues into the human rights agenda that should be taken up in the United Nations bodies mandated to deal with them. The elimination of poverty and disease and the promotion of development should, indeed, be first priorities of the international community. They were worthy goals and his delegation supported them.

113. Moreover, his delegation objected to the labelling of development as a human right and stressed that if everything were called a right, the word "right" could become devoid of any real meaning. In his delegation's opinion, a "right" implied a precise relationship between individuals and their State with specific duties and entitlements. The right to be free from torture was far more meaningful than the right to rest and leisure.

114. Many countries owed their independence to the concept of the exercise of human rights. The concept had created new nations and offered hope to those who lived under régimes that did not respect human rights. The idea of human rights had grown from a belief that man had a separate existence from the State and that he could therefore make legitimate demands upon it. In the modern world, the ability of man to exercise his inalienable human rights were under constant assault. If the Commission distorted the language of human rights, it would have difficulty in defending the concept. That was the danger of following the path laid out in the draft resolution in question.

The meeting rose at 6.25 p.m.